
HOUSE BILL 2577

State of Washington 56th Legislature 2000 Regular Session

By Representatives Miloscia, Mulliken, Mielke, Linville, Ericksen, Grant, Haigh and Hurst

Read first time 01/17/2000. Referred to Committee on Local Government.

1 AN ACT Relating to the merger of water-sewer districts into cities;
2 amending RCW 35.13A.070, 36.93.090, and 36.93.105; adding a new chapter
3 to Title 35 RCW; creating a new section; recodifying RCW 35.13A.010,
4 35.13A.070, 35.13A.090, and 35.13A.100; and repealing RCW 35.13A.020,
5 35.13A.030, 35.13A.0301, 35.13A.040, 35.13A.050, 35.13A.060,
6 35.13A.080, and 35.13A.900.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

8 NEW SECTION. **Sec. 1.** (1) Whenever a district and all of the
9 cities in which any portion of the district's territory is located
10 agree that the district or any portion thereof shall be merged into the
11 city or cities, the district and the city or cities shall enter into an
12 agreement providing for the merger.

13 (2) Unless the agreement provides otherwise, on the effective date
14 of the merger as established in the agreement:

15 (a) All of the funds and other property, real and personal, of the
16 district shall vest in and become the property of the city or cities,
17 in the proportion stated in the agreement, subject to all financial,
18 statutory, or contractual obligations of the district for the security
19 or performance of which the property may have been pledged; and

1 (b) Any outstanding indebtedness of any form, owed by the district,
2 shall remain the obligation of the area of the district. The city or
3 cities shall take all actions necessary to fulfill any obligation
4 assumed by the city or cities, and shall make such levies, assessments,
5 or charges for service upon such area or the users of service in the
6 area as necessary to pay such indebtedness at maturity.

7 (3)(a) Within ten days of the approval of the agreement by the
8 legislative bodies of the district and the city or cities, the
9 legislative bodies shall transmit the agreement to the legislative
10 authority of each county in which the district is located, the
11 department of health, and the department of ecology. Within sixty days
12 of the transmission of the agreement, the legislative authority of each
13 county in which the district is located shall fix a time and place for
14 a hearing on the merger. Notice of the hearing shall be published at
15 least once a week for two consecutive weeks in a newspaper of general
16 circulation in the district. The notice shall state or depict the
17 boundaries of the portion of the district proposed to be merged into
18 the city or cities.

19 (b) The district and the city or cities shall submit information to
20 the county legislative authority establishing that the proposed merger
21 agreement is in the best interests of public health and general
22 welfare, based on factors including but not limited to: (i)
23 Topography, drainage basins, and other engineering or operational
24 concerns; (ii) water rights and supplies; (iii) employee concerns; (iv)
25 compliance with chapter 36.70A RCW; (v) comprehensive plans and county-
26 wide planning policies adopted under chapter 36.70A RCW, and other
27 regional policies; (vi) the likelihood of significant growth in the
28 area and probable need for utility services in the next ten years;
29 (vii) the probable effect of the proposal on cost and adequacy of
30 utility services in the area; (viii) the effect of the proposal on the
31 finances, debt structure, and contractual obligations and rights of all
32 affected governmental units; and (ix) any applicable service agreements
33 or interlocal annexation agreements. Prior to the hearing, the
34 department of health shall review the proposed merger agreement and
35 provide comments to the county legislative authority on the proposed
36 agreement. Prior to the hearing, the department of ecology shall
37 review the proposed merger agreement and provide comments to the county
38 legislative authority on the impact, if any, of the proposed agreement
39 on water rights.

1 (c) Upon conclusion of the hearing, the county legislative
2 authority shall pass an ordinance that either approves or disapproves
3 the proposed merger agreement, or remands the proposed agreement to the
4 district and the city or cities to further address identified issues.
5 If the district is located in more than one county, the legislative
6 authorities of all of the counties in which the district is located
7 must approve the proposed agreement. If a county legislative authority
8 does not pass an ordinance that either approves, disapproves, or
9 remands the proposed agreement within one hundred twenty days of the
10 transmission of the agreement to the county, the county legislative
11 authority shall be deemed to have approved the proposed agreement.

12 (4) If the legislative bodies of the district and the city or a
13 majority of the cities agree, as an alternative to obtaining the
14 approval of the proposed merger agreement by the county legislative
15 authority under subsection (3) of this section, the district and the
16 city or cities shall submit the approval of the proposed agreement to
17 the voters of the district at the next special or general election.
18 Notice of the election shall be given and the election conducted in
19 accordance with general election laws. If at such election the
20 majority of the voters in the district vote in favor of the proposed
21 agreement, the county canvassing board shall so declare and upon the
22 return of the election the proposed agreement shall be approved.

23 (5) The ordinance of the county legislative authority under
24 subsection (3) of this section shall not take effect for thirty days
25 from the date of final passage, during which time the ordinance shall
26 be subject to referendum by the registered voters of the district. The
27 number of registered voters necessary to sign any referendum petition
28 under this section shall be ten percent of the total number of
29 registered voters within the district on the date of the last general
30 election within the district. The power of referendum shall be
31 exercised in the manner set forth in RCW 35.17.240 and 35.17.250.

32 (6) Should the referendum submitted to the registered voters of the
33 district under subsection (5) of this section be approved by a majority
34 of the votes cast, the ordinance approving the merger shall be invalid
35 and no further merger proposal concerning the district, or portion
36 thereof subject to the merger proposal, may be submitted to the county
37 legislative authority for a period of two years following the
38 certification of the referendum election.

1 NEW SECTION. **Sec. 2.** (1) Whenever a district or a city proposes
2 that all or a portion of the district be merged into the city, and the
3 district and all of the cities in which any portion of the district's
4 territory is located do not agree to the merger or any of the terms or
5 conditions of the merger, the issue of the proposed merger shall be
6 determined by the legislative authority of each county in which any
7 portion of the district is located. The district or any of the cities,
8 or the district and any of the cities, may initiate the county's or
9 counties' consideration of the proposed merger by adopting a resolution
10 or resolutions stating the intent to merge.

11 (2)(a) The district or the city, or the district and the city or
12 cities, shall submit a certified copy of the resolution or resolutions
13 to the legislative authority of each county in which the district is
14 located. Within sixty days of the submission of the resolution, the
15 legislative authority of each county in which the district is located
16 shall fix a time and place for a hearing on the merger. Notice of the
17 hearing shall be published at least once a week for two consecutive
18 weeks in a newspaper of general circulation in the district. The
19 notice shall state or depict the boundaries of the portion of the
20 district proposed to be merged into the city or cities.

21 (b) The district and the city or cities into which the district
22 would merge shall each submit to the county legislative authority, the
23 department of health, and the department of ecology a merger proposal,
24 or a proposal for no merger, together with information addressing
25 whether the proposal is in the best interests of the public health and
26 general welfare, based on factors including but not limited to: (i)
27 Topography, drainage basins, and other engineering or operational
28 concerns; (ii) water rights and supplies; (iii) employee concerns; (iv)
29 compliance with chapter 36.70A RCW; (v) comprehensive plans and county-
30 wide planning policies adopted under chapter 36.70A RCW, and other
31 regional policies; (vi) the likelihood of significant growth in the
32 area and probable need for utility services in the next ten years;
33 (vii) the probable effect of the proposal on cost and adequacy of
34 utility services in the area; (viii) the effect of the proposal on the
35 finances, debt structure, and contractual obligations and rights of all
36 affected governmental units; and (ix) any applicable service agreements
37 or interlocal annexation agreements. The city or cities shall provide
38 proof to the county legislative authority that the city's comprehensive
39 plan provides for the merger of the district, or portion thereof, into

1 the city. Prior to the hearing, the department of health shall review
2 the merger proposals and provide comments to the county legislative
3 authority on the proposals. Prior to the hearing, the department of
4 ecology shall review the merger proposals and provide comments to the
5 county legislative authority on each proposal's impact, if any, on
6 water rights.

7 (c) Upon conclusion of the hearing, the county legislative
8 authority shall pass an ordinance that either approves a merger
9 proposal, approves a merger proposal with modifications, or disapproves
10 all of the merger proposals. The ordinance shall state the effective
11 date of the merger, which shall be no sooner than one hundred twenty
12 days after the effective date of the ordinance. If the county
13 legislative authority determines to approve a merger proposal with
14 modifications, then the legislative authority shall issue a proposed
15 decision, provide the district and the city or cities with no less than
16 thirty days to submit comments on the proposed decision, and, at the
17 request of either the district or a city, reopen the hearing to receive
18 testimony on the proposed decision. If the district is located in more
19 than one county, the legislative authorities of all of the counties in
20 which the district is located must approve a merger proposal in order
21 for the merger to be effective.

22 (3) If the county ordinance approves a merger proposal and unless
23 the county ordinance provides otherwise:

24 (a) On the effective date of the merger, all of the funds and other
25 property, real and personal, of the district shall vest in and become
26 the property of the city or cities, in the proportion stated in the
27 county ordinance, subject to all financial, statutory, or contractual
28 obligations of the district for the security or performance of which
29 the property may have been pledged; and

30 (b) On the effective date of the merger, any outstanding
31 indebtedness of any form, owed by the district, shall remain the
32 obligation of the area of the district. The city or cities shall take
33 all actions necessary to fulfill any obligation assumed by the city or
34 cities, and shall make such levies, assessments, or charges for service
35 upon such area or the users therein as necessary to pay such
36 indebtedness at maturity.

37 (4) The ordinance of the county legislative authority under
38 subsection (2)(c) of this section shall not take effect for thirty days
39 from the date of final passage, during which time the ordinance shall

1 be subject to referendum by the registered voters of the district. The
2 number of registered voters necessary to sign any referendum petition
3 under this section shall be ten percent of the total number of
4 registered voters within the district on the date of the last general
5 election within the district. The power of referendum shall be
6 exercised in the manner set forth in RCW 35.17.240 and 35.17.250.

7 (5) Should the referendum submitted to the registered voters of the
8 district under subsection (4) of this section be approved by a majority
9 of the votes cast, the ordinance approving the merger shall be invalid
10 and no further merger proposal concerning the district, or the portion
11 thereof subject to the merger proposal, may be submitted to the county
12 legislative authority for a period of two years following the
13 certification of the referendum election.

14 **Sec. 3.** RCW 35.13A.070 and 1997 c 426 s 2 are each amended to read
15 as follows:

16 Notwithstanding any provision of this chapter to the contrary, one
17 or more cities and one or more districts may, through their
18 legislative authorities, authorize a contract with respect to the
19 rights, powers, duties, and obligation of such cities, or districts
20 with regard to the use and ownership of property, the providing of
21 services, the maintenance and operation of facilities, allocation of
22 cost, financing and construction of new facilities, application and use
23 of assets, disposition of liabilities and debts, the performance of
24 contractual obligations, and any other matters arising out of the
25 inclusion, in whole or in part, of the district or districts within any
26 city or cities(~~(, or the assumption by the city of jurisdiction of a~~
27 ~~district under RCW 35.13A.110)~~). The contract may provide for the
28 furnishing of services by any party thereto and the use of city or
29 district facilities or real estate for such purpose, and may also
30 provide for the time during which such district or districts may
31 continue to exercise any rights, privileges, powers, and functions
32 provided by law for such district or districts as if the district or
33 districts or portions thereof were not included within a city (~~or were~~
34 ~~not subject to an assumption of jurisdiction under RCW 35.13A.110)~~),
35 including but not by way of limitation, the right to promulgate rules
36 and regulations, to levy and collect special assessments, rates,
37 charges, service charges, and connection fees, to adopt and carry out
38 the provisions of a comprehensive plan, and amendments thereto, for a

1 system of improvements, and to issue general obligation bonds or
2 revenue bonds in the manner provided by law. The contract may provide
3 for the transfer to a city of district facilities, property, rights,
4 and powers (~~(as provided in RCW 35.13A.030, 35.13A.050, and 35.13A.110,~~
5 ~~whether or not sixty percent or any of the area or assessed valuation~~
6 ~~of real estate lying within the district or districts is included~~
7 ~~within such city)). The contract may provide that any party thereto
8 may authorize, issue, and sell revenue bonds to provide funds for new
9 water or sewer improvements or to refund any water revenue, sewer
10 revenue, or combined water and sewer revenue bonds outstanding of any
11 city, or district which is a party to such contract if such refunding
12 is deemed necessary, providing such refunding will not increase
13 interest costs. The contract may provide that any party thereto may
14 authorize and issue, in the manner provided by law, general obligation
15 or revenue bonds of like amounts, terms, conditions, and covenants as
16 the outstanding bonds of any other party to the contract, and such new
17 bonds may be substituted or exchanged for such outstanding bonds.
18 However, no such exchange or substitution shall be effected in such a
19 manner as to impair the obligation or security of any such outstanding
20 bonds.~~

21 **Sec. 4.** RCW 36.93.090 and 1996 c 230 s 1608 are each amended to
22 read as follows:

23 Whenever any of the following described actions are proposed in a
24 county in which a board has been established, the initiators of the
25 action shall file within one hundred eighty days a notice of intention
26 with the board: PROVIDED, That when the initiator is the legislative
27 body of a governmental unit, the notice of intention may be filed
28 immediately following the body's first acceptance or approval of the
29 action. The board may review any such proposed actions pertaining to:

30 (1) The: (a) Creation, incorporation, or change in the boundary,
31 other than a consolidation, of any city, town, or special purpose
32 district; (b) consolidation of special purpose districts, but not
33 including consolidation of cities and towns; or (c) dissolution or
34 disincorporation of any city, town, or special purpose district, except
35 that a board may not review the dissolution or disincorporation of a
36 special purpose district which was dissolved or disincorporated
37 pursuant to the provisions of chapter 36.96 RCW: PROVIDED, That the
38 change in the boundary of a city or town arising from the annexation of

1 contiguous city or town owned property held for a public purpose shall
2 be exempted from the requirements of this section; or

3 ~~(2) ((The assumption by any city or town of all or part of the
4 assets, facilities, or indebtedness of a special purpose district which
5 lies partially within such city or town; or~~

6 ~~(3))~~ The establishment of or change in the boundaries of a mutual
7 water and sewer system or separate sewer system by a water-sewer
8 district pursuant to RCW 57.08.065 ~~((or chapter 57.40 RCW))~~; or

9 ~~((4))~~ (3) The extension of permanent water or sewer service
10 outside of its existing service area by a city, town, or special
11 purpose district. The service area of a city, town, or special purpose
12 district shall include all of the area within its corporate boundaries
13 plus, (a) for extensions of water service, the area outside of the
14 corporate boundaries which it is designated to serve pursuant to a
15 coordinated water system plan approved in accordance with RCW
16 70.116.050; and (b) for extensions of sewer service, the area outside
17 of the corporate boundaries which it is designated to serve pursuant to
18 a comprehensive sewerage plan approved in accordance with chapter 36.94
19 RCW and RCW 90.48.110.

20 **Sec. 5.** RCW 36.93.105 and 1999 c 153 s 46 are each amended to read
21 as follows:

22 The following actions shall not be subject to potential review by
23 a boundary review board:

24 (1) Annexations of territory to a water-sewer district pursuant to
25 RCW 36.94.410 through 36.94.440;

26 (2) Merger of a water-sewer district, or any portion of a water-
27 sewer district, into a city or town under this act;

28 (3) Revisions of city or town boundaries pursuant to RCW 35.21.790
29 or 35A.21.210;

30 ~~((3))~~ (4) Adjustments to city or town boundaries pursuant to RCW
31 35.13.340; and

32 ~~((4))~~ (5) Adjustments to city and town boundaries pursuant to RCW
33 35.13.300 through 35.13.330.

34 NEW SECTION. **Sec. 6.** Sections 1 and 2 of this act constitute a
35 new chapter in Title 35 RCW.

1 NEW SECTION. **Sec. 7.** RCW 35.13A.010, 35.13A.070, 35.13A.090, and
2 35.13A.100 are each recodified as sections in the new chapter created
3 in section 6 of this act.

4 NEW SECTION. **Sec. 8.** The following acts or parts of acts are each
5 repealed:

6 (1) RCW 35.13A.020 (Assumption authorized--Disposition of
7 properties and rights--Outstanding indebtedness--Management and
8 control) and 1999 c 153 s 28, 1998 c 326 s 2, & 1971 ex.s. c 95 s 2;

9 (2) RCW 35.13A.030 (Assumption of control if sixty percent or more
10 of area or valuation within city) and 1999 c 153 s 29 & 1971 ex.s. c 95
11 s 3;

12 (3) RCW 35.13A.0301 (Assumption of water-sewer district before July
13 1, 1999--Limitations) and 1998 c 326 s 3;

14 (4) RCW 35.13A.040 (Assumption of control if less than sixty
15 percent of area or valuation within city) and 1999 c 153 s 30 & 1971
16 ex.s. c 95 s 4;

17 (5) RCW 35.13A.050 (Territory containing facilities within or
18 without city--Duties of city or district--Rates and charges--Assumption
19 of responsibility--Outstanding indebtedness--Properties and rights) and
20 1971 ex.s. c 95 s 5;

21 (6) RCW 35.13A.060 (District in more than one city--Assumption of
22 responsibilities--Duties of cities) and 1999 c 153 s 31 & 1971 ex.s. c
23 95 s 6;

24 (7) RCW 35.13A.080 (Dissolution of water district or sewer
25 district) and 1997 c 426 s 3 & 1971 ex.s. c 95 s 8; and

26 (8) RCW 35.13A.900 (Severability--1971 ex.s. c 95) and 1971 ex.s.
27 c 95 s 12.

28 NEW SECTION. **Sec. 9.** Any contract between a district and a city
29 that relates to the assumption of all or any portion of a district by
30 a city or cities, and that exists on the effective date of this
31 section, shall remain in full force and effect notwithstanding the
32 repeal or amendment of any of the sections in chapter 35.13A RCW by
33 this act.

34 NEW SECTION. **Sec. 10.** If any provision of this act or its
35 application to any person or circumstance is held invalid, the

1 remainder of the act or the application of the provision to other
2 persons or circumstances is not affected.

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